

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-55d	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dennis Meservy	801-530-6375	801-530-6511	dmeservy@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):
	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rule
3.	Type of notice:
	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___
4.	Purpose of the rule or reason for the change:
	The Division and the Alarm System Security and Licensing Board are proposing amendments to this rule as a result of the governing statute, Title 58, Chapter 55 being amended by SB 295 during the 2008 Legislative Session. Proposed amendments are also clarifying experience requirements and criminal history background checks.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	Yes ___; No XX
6.	Summary of the rule change:

	<p>Section 102-Definitions: Updated the definition of "individual employed" and added a definition for "employee". Section 302a-Application Requirements: Amendments are made to clarify acceptable photo identification that is to be submitted with an application for licensure. Section 302c-Experience Requirements: Amendments are made to clarify that work experience for the qualifying agent of an alarm company has to be obtained legally and under the supervision of the applicant's employer and that no more than 2,000 hours of work experience can be claimed in a 12 month period. Also added that the work experience must have been obtained within the past ten years. Section 302d-Examination Requirements: Amendments to this section add retake information for applicants who fail an examination. Section 304-Demonstration of Clear Criminal History - This section was amended to update current Division procedures with respect to an applicant's criminal background check. Section 603-Alarm Install Operating Standards: An outdated provision in paragraph (4) is being deleted.</p>
7.	<p>Aggregate anticipated cost or savings to:</p> <p>A) State budget:</p> <p>The Division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Costs incurred will be absorbed in the Division's current budget.</p> <p>B) Local government:</p> <p>The proposed amendments do not apply to local governments. Proposed amendments only apply to licensed burglar alarm companies and burglar alarm company agents and applicants for licensure in those classifications.</p> <p>C) Small businesses (fewer than 50 employees) AND persons other than businesses:</p> <p>The proposed amendments only apply to licensed burglar alarm companies and burglar alarm company agents and applicants for licensure in those classifications. It should be noted that a burglar alarm company may qualify as a "small business". The Division does not anticipate any costs or savings to the regulated industry or other individuals as a result of the proposed amendments. Licensed burglar alarm companies should already be deducting state and federal taxes from their employees' pay and covering their employees with worker's compensation and unemployment insurances. It should be noted the vast majority of persons seeking licensure as a burglar alarm company agent have current work experience. However, there would be an unknown financial impact on individuals who would be unable to become licensed as a burglar alarm company agent due to their work experience being older than ten years.</p>
8.	<p>Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>The proposed amendments only apply to licensed burglar alarm companies and burglar alarm company agents and applicants for licensure in those classifications. The Division does not anticipate any costs or savings to the regulated industry or other individuals as a result of the proposed amendments. Licensed burglar alarm companies should already be deducting state and federal taxes from their employees' pay and covering their employees with worker's compensation and unemployment insurances. It should be noted the vast majority of persons seeking licensure as a burglar alarm company agent have current work experience. However, there would be an unknown financial impact on individuals who would be unable to become licensed as a burglar alarm company agent due to their work experience being older than ten years.</p>
9.	<p>Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>This rule filing clarifies definitions, as well as the requirements for applicant identification, experience and examination. The filing also limits acceptable experience to that earned within the last ten years and places limitations on how frequently an applicant may take a required examination. These substantive changes could potentially pose some costs in time or money to applicants if their experience is more than ten years old or if they fail the test repeatedly. However, that cost is difficult to estimate. No other fiscal impact to businesses is anticipated from this filing. Francine A. Giani, Executive Director</p>
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</p> <p>Sections 58-55-101 and 58-55-308 and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-55-302(3)(k), 58-55-302(3)(l) and 58-55-302(4)</p>

11.	This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):		
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i> . See Section 63-46a-5 and Rule R15-1 for more information.)		
A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		11/14/2008	
B) A public hearing (optional) will be held:			
on (mm/dd/yyyy):		at (time):	At (place):
10/29/2008		9:00 am	160 East 300 South, Conference Room 474 (4th floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):		11/21/2008
NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.			
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):		
licensing		alarm company	
burglar alarms			
15.	Attach an RTF document containing the text of this rule change (filename):		R156-55d.pro
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	F. David Stanley, Director	Date (mm/dd/yyyy):	09/24/2008

R156. Commerce, Occupational and Professional Licensing.

R156-55d. Utah Construction Trades Licensing Act Burglar Alarm Licensing Rule.

R156-55d-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapters 1 and 55, or this rule:

(1) "Individual employed", as used in Subsection 58-55-102(2), means an individual who ~~[has an agreement with an alarm business or company to perform alarm systems business activities under the direct supervision or control of the alarm business or company and for whose alarm system business activities the alarm company is legally liable and who]~~ is an employee of a licensed burglar alarm company and who has or could have access to knowledge of specific applications.

(2) "Employee", as used in Subsections 58-55-102(14) and R156-55d-102(1), means an individual providing labor services for compensation who has federal and state taxes withheld and worker's compensation and unemployment insurance provided by the individual's employer.

(~~[2]~~3) "Knowledge of specific applications", as used in Subsection R156-55d-102(1), means obtaining specific information about any premises which is protected or is to be protected by an alarm system. This knowledge is gained through access to records, on-site visits or otherwise gathered through working for an alarm business or company.

(~~[3]~~4) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(1), in Section R156-55d-502.

R156-55d-302a. Qualifications for Licensure - Application Requirements.

(1) An application for licensure as an alarm company shall include:

(a) a record of criminal history or certification of no record of criminal history with respect to the applicant's qualifying agent, issued by the Bureau of Criminal Identification, Utah Department of Public Safety;

(b) two fingerprint cards containing:

(i) the fingerprints of the applicant's qualifying agent;

(ii) the fingerprints of each of the applicant's officers, directors, shareholders owning more than 5% of the stock of the company, partners, and proprietors; and

(iii) the fingerprints of each of the applicant's management personnel who will have responsibility for any of the company's operations as an alarm company within the state;

(c) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of the

Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, for each individual for whom fingerprints are required under Subsection (1)(b); and

(d) a copy of ~~[the driver license or Utah identification card]~~a current photo identification for each individual for whom fingerprints are required under Subsection (1)(b). Acceptable photo identification shall include:

(i) a driver license issued by a state of the United States of America or Washington, District of Columbia; or

(ii) an identification card issued by the state of Utah.

(2) An application for license as an alarm company agent shall include:

(a) a record of criminal history or certification of no record of criminal history with respect to the applicant, issued by the Bureau of Criminal Identification, Utah Department of Public Safety;

(b) two fingerprint cards containing the fingerprints of the applicant;

(c) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, regarding the applicant; and

(d) a copy of ~~[the driver license or Utah identification card]~~a current photo identification for the applicant. Acceptable identification shall include:

(i) a driver license issued by a state of the United States of America or Washington, District of Columbia; or

(ii) an identification card issued by the state of Utah.

R156-55d-302c. Qualifications for Licensure - Experience Requirements.

In accordance with Subsections 58-1-203(1) and 58-1-301(3) the experience requirements for an alarm company applicant's qualifying agent in Subsection 58-55-302(3)(k)(i) are ~~[defined, clarified, or established in that an individual to be approved as a qualifying agent of an alarm company shall]~~established as follows:

(1) an applicant shall have within the past ten years:

([1]a) ~~[have]~~not less than 6,000 hours of experience in a lawfully operated~~[the]~~ alarm company business of which not less than 2,000 hours shall have been in a ~~[management]~~managerial, supervisory, or ~~[administration]~~administrative position; or

([2]b) ~~[have]~~not less than 6,000 hours of experience in a lawfully operated~~[the]~~ alarm company business combined with not less than 2,000 hours of ~~[management]~~managerial, supervisory, or

administrative experience in a lawfully ~~[and competently]~~
operated construction company~~[-]~~;

(2) all experience under Subsection (1) shall be under the immediate supervision of the applicant's employer as defined in Subsection 58-55-102(20);

(3) all experience must be obtained while lawfully engaged as an alarm company agent and working for a lawfully operated burglar alarm company;

(4) 2,000 hours of work experience constitutes one year (12 months) of work experience;

(5) an applicant may claim no more than 2,000 hours of work experience in any 12 month period; and

(6) no credit shall be given for experience obtained illegally.

R156-55d-302d. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the examination requirements for an alarm company applicant's qualifying agent in Subsection 58-55-302(3)(k)(i)(C) are defined, clarified, or established in that an individual to be approved as a qualifying agent of an alarm company shall:

(1) pass the Utah Burglar Alarm Law and Rule Examination with a score of not less than 75%;~~[-and]~~

(2) pass the Burglar Alarm Qualifier Examination with a score of not less than 75%; and

(3) an applicant for licensure who fails an examination may retake the failed examination as follows:

(a) no sooner than 30 days following any failure, up to three failures; and

(b) no sooner than six months following any failure thereafter.

R156-55d-304. Renewal Requirement - Demonstration of Clear Criminal History.

(1) In accordance with Subsections 58-1-203(1), 58-1-308(3)(b), and 58-55-302(4), there is created as a requirement for renewal or reinstatement of any license of an alarm company or alarm company agent a demonstration of clear criminal history for each alarm company qualifying agent and for each alarm company agent.

~~(2) [Each application for renewal or reinstatement of a license of an alarm company shall be accompanied by a record of criminal history or certification of no record of criminal history with respect to the alarm company's qualifying agent, issued by the Bureau of Criminal Identification, Utah Department of Public Safety within 120 days prior to submission of the~~

~~application for renewal or reinstatement to the Division]~~The criminal history background check shall be performed by the Division and is not required to be submitted by the applicant.

(3) ~~[Each application for renewal or reinstatement of a license of an alarm company agent shall be accompanied by a record of criminal history or certification of no record of criminal history with respect to the alarm company agent, issued by the Bureau of Criminal Identification, Utah Department of Public Safety within 120 days prior to submission of the application for renewal or reinstatement to the Division]~~If the criminal background check discloses the applicant has a criminal history, the Division shall evaluate the criminal history in accordance with Sections 58-55-302 and R156-5d-302f to determine appropriate licensure action.

R156-55d-603. Operating Standards - Alarm Installer.

In accordance with Subsection 58-55-308(1), the operating standards for the installer of an alarm system include the following:

(1) An alarm agent must be fully trained in the installation of an alarm system in accordance with the National Burglar and Fire Alarm Association (NBFAA) level one certification or equivalent training requirements prior to the alarm agent installing any alarm system in any residence, business, or public building within the state.

(2) An alarm agent upon receiving initial licensure may work under the direct supervision of an alarm agent who has level one certification for a period of six months from the time of initial licensure without being required to hold a level one certificate.

(3) An alarm agent shall carry evidence of the NBFAA level one certification or equivalent training with him at all times. [

~~— (4) An alarm agent holding licensure under Title 58, Chapter 55 shall have until June 30, 2001 to comply with the NBFAA level one certification or equivalent training requirement.]~~

KEY: licensing, alarm company, burglar alarms

Date of Enactment or Last Substantive Amendment: [October 18, 2005]2008

Notice of Continuation: June 28, 2005

Authorizing, and Implemented or Interpreted Law: 58-55-101; 58-1-106(1)(a); 58-1-202(1)(a); 58-55-302(3)(k); 58-55-302(3)(1); 58-55-302(4); 58-55-308